

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20544

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Massachusetts Department of Telecommunications)
and Energy Petition for Waiver of Section 52.19 to)
Implement Various Area Code Conservation)
Measures in the 508, 617, 781 and 978 Area Codes)

DA 99-461
NSD File No. L-99-19

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Federal Communications Commission
Office of Secretary

CC DOCKET 96-98

New York Department of Public Service Petition)
for Additional Authority to Implement Number)
Conservation Measures)

DA 99-462
NSD File No. L-99-21

**COMMENTS OF MEDIAONE GROUP ON THE PETITIONS OF THE
MASSACHUSETTS DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY
AND THE NEW YORK DEPARTMENT OF PUBLIC SERVICE FOR ADDITIONAL
AUTHORITY TO IMPLEMENT AREA CODE CONSERVATION MEASURES**

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AUTHORITY TO IMPLEMENT AREA CODE CONSERVATION MEASURES**

MediaOne Group, Inc. hereby submits its Comments in response to the Common Carrier Bureau's public notice seeking comment on the Massachusetts Department of Telecommunications and Energy ("MDTE") Petition for Waiver of Section 52.19 to Implement Various Area Code Conservation Measures in the 508, 617, 781 and 978 Area Codes¹, as well as the New York Department of Public Service ("NYDPS") Petition for Additional Authority to Implement Number Conservation Measures.²

¹ Massachusetts Department of Telecommunications and Energy ("MDTE") Petition for Waiver of Section 52.19 to Implement Various Area Code Conservation Measures in the 508, 617, 781 and 978 Area Codes, February 17, 1999 (the "MDTE Petition").

² New York Department of Public Service ("NYDPS") Petition for Additional Authority to

INTRODUCTION AND SUMMARY

On September 28, 1998, the Federal Communications Commission (the “Commission”) released an order in the matter of the Petition for Declaratory Ruling and Request for Expedited Action on the July 15, 1997 Order of the Pennsylvania Public Utility Commission Regarding Area Codes 412, 610, 215 and 717, and Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, *Memorandum Opinion and Order and Order on Reconsideration*, FCC 98-224, CC Docket No. 96-98, NSD File No. L-97-42 (September 28, 1998) (the “Pennsylvania Order”). The Pennsylvania Order addressed the jurisdiction of state commissions over telephone numbering administration and resources. While the Pennsylvania Order clarified that state commissions have authority over the planning, initiation and implementation of area code relief measures,³ it also ruled that state commissions do not have jurisdiction over numbering issues, such as NXX code reclamation or mandatory number pooling. *Pennsylvania Order*, ¶ 24.

The Pennsylvania Order did, however, extend to states the limited authority, under specific circumstances, to order NXX code rationing but only conjunction with area code relief. The Commission ordered that a state may implement rationing once an area code relief implementation date has been set, *and*, only if the industry group has not reached a consensus on a rationing plan. *Id.* at ¶¶ 24, 54; 47 C.F.R. § 52.19(a). Finally, recognizing that state commissions across the country are faced with critical and difficult numbering decisions, the Pennsylvania Order also urged the states to request from the Commission an additional, limited

Implement Number Conservation Measures, February 19, 1999 (the “NYDPS Petition”).

³ Area code relief measures are defined to include geographic split, boundary realignment and overlay. *Pennsylvania Order*, ¶ 8; 47 C.F.R. § 52.19. States retain the authority to plan, initiate and implement the chosen method of area code relief.

delegation of authority as necessary to implement any other form of numbering conservation.

Pennsylvania Order, ¶ 31. It is pursuant to this Commission invitation that the New York and Massachusetts state commissions seek additional authority to implement numbering conservation measures.

MediaOne shares the concerns of Massachusetts and New York (collectively the “States”) that the current method of number allocation, which distributes telephone numbers in blocks of 10,000, is highly inefficient and in large part responsible for the proliferation of area code jeopardy declarations throughout the country. MediaOne also understands that although national guidelines on number conservation issues are under investigation, individual states are faced with difficult decisions as area code exhaust dates quickly approach. For these reasons, MediaOne supports the conservation efforts by the States and the Commission to improve and optimize the allocation of finite numbering resources and avoid the unnecessary waste that plagues the current system. Additional conservation authority sought by the States, however, must meet the Commission’s requirements that numbering administration must: 1) facilitate entry into the telecommunications marketplace by making numbering resources available on an efficient, timely basis to all carriers; 2) not unduly favor or disfavor any particular industry segment or group of carriers; and 3) not unduly favor one telecommunications technology over another.

Pennsylvania Order, ¶6.

Additionally, MediaOne strongly believes that while conservation is of paramount importance, where jeopardy has already been declared, the conservation of numbering resources must occur concurrently with area code relief. As the Commission has recognized, conservation is not a substitute for area code relief after jeopardy has been declared. *Pennsylvania Order*, ¶ 38. This is particularly true where the conservation method is unproven, or is not implemented

in conjunction with national guidelines. *Pennsylvania Order*, ¶ 38. Reliance solely on conservation measures when an area code is in jeopardy of exhaust could have devastating effects on carriers, especially competitive local exchange carriers (“CLECs”) in the early stages of entry into the telecommunications market.

DISCUSSION

Set forth below is MediaOne’s position on the specific numbering conservation methods for which Massachusetts and New York have sought authority to implement. Where the States’ requests are similar, they are addressed together.

1. Reclamation of Unused or Reserved Exchange Codes:

The MDTE has requested authority from the Commission to require the reclamation of both unused NXX codes, as well as available thousands-blocks, from carriers with excessive stores of numbers. It also seeks to require the return of reserved NXX codes⁴, previously allocated to the incumbent, New England Telephone and Telegraph d/b/a Bell Atlantic-Massachusetts (“Bell Atlantic”). *See MDTE Petition, p.5-6.*

MediaOne asserts that if properly implemented with sufficient safeguards, MDTE authority to reclaim codes would aid meaningfully in the conservation of numbering resources. The MDTE estimates, based upon the response of industry members in Massachusetts, that over 5,200 unassigned, uncontaminated thousands blocks of telephone numbers in all four Massachusetts area codes are being held by 21 carriers. *MDTE Petition, p. 6.* Clearly, if carriers

⁴ A reserved code is defined as an NXX code that has been temporarily set aside for an applicant for future use, and is, therefore, not to be immediately activated. In addition, a reserved code is an NXX code that has been set aside for potential future use but is not associated with any specific applicant. For example, an NXX code which is identical to the home NPA, although theoretically assignable, is considered “reserved” for use only as a last resort. Central Office Code Guidelines, § 13.0, Glossary.

are required to return unused NXX codes or uncontaminated thousands blocks to the code administrator, increased resources would be available to carriers with a genuine need for numbers.

Currently, NXX code reclamation procedures are governed by the Central Office Code (NXX) Assignment Guidelines (“COC Guidelines”), which were developed by the industry and administered by the North American Numbering Plan Administrator (“NANPA”).⁵ Section 8.0 of the COC Guidelines states that a carrier shall return an NXX code if it is no longer needed for the purpose for which it was originally assigned, or if it is not activated within a specified time frame, which may extend up to 18 months following assignment of the NXX Code. COC Guidelines, §8.2.1.

NANPA, therefore, already has the authority to reclaim unactivated codes, although there are indications that NANPA’s enforcement of the COC Guidelines has been somewhat inconsistent. The Commission should urge NANPA to enforce the COC Guidelines as written to ensure that unactivated NXX codes are being utilized most efficiently. MediaOne would also support authorization by the Commission to the MDTE to enforce the existing COC Guidelines reclamation procedures as they pertain to Massachusetts code holders.

Because telephone numbers are not yet assigned in blocks of 1000, the COC Guidelines do not address reclamation of unassigned thousands-blocks of numbers within activated NXX codes. Once thousands-blocks pooling becomes a viable conservation alternative, the return of thousands-blocks will be imperative for the maximization of numbering resources. MediaOne

⁵ The Code Administrator chosen by the Commission to administer the North American Numbering Plan is Lockheed Martin.

therefore supports an additional grant of authority to the MDTE to investigate the reclamation of uncontaminated thousands-blocks, subject to the restrictions as set forth below.

It is critical that any authority granted to the MDTE for the reclamation of NXX codes beyond that specified in the COC Guidelines, or in conjunction with thousands-block reclamation, must allow carriers sufficient time to activate initial codes after they are assigned. Specifically, a CLEC such as MediaOne which is still in the process of launching its telephony services in Massachusetts, is already operating pursuant to the constraints of jeopardy code rationing procedures. Where jeopardy is in effect, in order to obtain initial codes CLECs are forced to enter the lottery, or risk being unable to expand service to customers or even launch services because codes are unavailable. As such, a CLEC may be awarded an initial code before it has commenced service in a rate center. Accordingly, reclamation procedures must provide for circumstances such as technical and operational difficulties that may be encountered during the initial launch of service, and allow CLECs flexibility in activating initial codes where they are in the processes of rolling out telephony service throughout the state. To do otherwise would result in duplicative assignment and allocation efforts, place an unwarranted burden on competitive local exchange carriers, and negatively affect the development of competition.

MediaOne also supports the reclamation of special NXX codes reserved by the incumbent for testing or other purposes. Currently, under the COC Guidelines, NANPA has authority during jeopardy to ask code holders to return, voluntarily, reserved NXX codes and may not honor reserved codes with activation dates prior to NPA relief. COC Guidelines, § 9.4(D). In addition to ordering NANPA enforcement of the existing Guidelines, the Commission should authorize the MDTE to require the return of reserved codes, unless the reservation is due to the technical constraints of CLEC initial code activation, as described above. Where jeopardy is in

effect, the reservation of multiple, entire NXX codes for testing or convenience is a luxury that should not be permitted.

2. Thousands-Block Pooling

Both the MDTE and NYDPS request from the Commission authority to require carriers to participate in thousands-block pooling. *MDTE Petition, p. 7; NYDPS Petition, p.p. 6-9*. In Massachusetts, by industry agreement as part of jeopardy procedures, carriers are participating in voluntary number assignment protocol ("Industry Agreement"), where uncontaminated thousands-blocks are set aside for eventual redistribution pursuant to national thousands-block pooling guidelines. In New York, the NYDPS has implemented voluntary thousands-block pooling trials in both the 212 and 718 area codes. *NYDPS Petition, p. 6*. Both state commissions, however, have experienced frustration at the inability to require LNP capable carriers to participate in thousands-block reclamation procedures, thus diminishing its effectiveness as a conservation tool.

MediaOne supports thousands-block pooling as a leading number conservation method. Thousands-blocks of telephone numbers could certainly satisfy many carriers' needs, particularly during a CLEC's launch period where a grant of 10,000 numbers per rate center is excessive. Furthermore, redistribution of 1000 number blocks would shift underutilized and valuable resources to where they are needed most. MediaOne also believes that thousands-block pooling can be implemented in a relatively short period of time.

While it is preferable, as noted by the Commission in the Pennsylvania Order, that the most efficient implementation of thousands-block pooling would be on a national basis, it is equally clear that states such as Massachusetts and New York are faced with escalating numbering crises which impact the ability of competitive carriers to do business. Thousands-

block pooling on a state by state basis is an interim solution until a national platform is launched. MediaOne supports the Commission granting the States authority to implement mandatory thousands-block pooling plans that are non-discriminatory and competitively neutral. Additionally, if the States are granted this authority it is essential that they work with NANC and any other applicable entities to develop state pooling procedures that mirror, as much as possible, those in development for national pooling administration. Only in this way can carriers avoid incurring duplicative costs and disruption once national guidelines are implemented.

3. Unassigned Number Porting and Individual Telephone Number Pooling

Both Massachusetts and New York Commissions seek authority to implement unassigned number porting (“UNP”). *MDTE Petition, p. 11; NYDPS Petition, p. 10*. UNP contemplates the porting of a specific number or numbers from a carrier with an excessive number inventory directly to another carrier who is in need of numbering resources. While MediaOne believes that UNP has the promise to be an effective number conservation tool and promote the sharing of numbering resources between carriers, administration of UNP poses noteworthy obstacles. Unlike thousands-block pooling, with UNP the numbers are not donated to a pool, then neutrally distributed by a third party. Instead, UNP puts a carrier directly at the mercy of a competitor to satisfy its numbering needs. Moreover, in a jeopardy situation, the donating carrier’s numbering supplies are also restricted.

For these reasons, MediaOne opposes the grant of additional authority to the States for the implementation of UNP. Additional investigation into the administration of UNP by a neutral, third party on a national basis is necessary. Although it is a compelling conservation alternative to be more fully explored, implementation of UNP as currently proposed could impact carriers in ways that are discriminatory and anti-competitive.

Additionally, NYDPS requests additional authority to implement individual telephone number pooling (“ITN”). *NYDPS Petition*, p. 9. ITN is similar to UNP in that it also targets individual, available telephone numbers – not blocks of numbers – for redistribution to carriers in need of additional resources, or specific numbers. Like UNP it is a promising conservation tool, which would contribute to the effective distribution of unused and misallocated telephone numbers. It is unlike UNP in that the available numbers are not ported directly to a competing carrier, but to a neutral, third party administrator, where they would be placed in a rate center based pool from which carriers may draw. From a competitive standpoint, because the numbers would be pooled, ITN presents a more attractive alternative than UNP. However, like UNP, the administration of individual telephone numbers requires additional research on a national level before states are granted authority to implement on their own. For these reasons, MediaOne opposes ITN authority to the States at this time.

4. Extended Local Calling Areas

The MDTE requests additional authority to implement Extended Local Calling Areas (“ELCAs”). *MDTE Petition*, p. 9. ELCAs, as currently in use by the wireless industry, are “technical arrangements that permit wireline carriers from a predetermined, fixed geographic area, typically a LATA, to call CMRS end users anywhere in that geographic calling area without a toll charge.”⁶ ELCAs ensure that wireline customers are billed local rates for calls placed to wireless customers in the same LATA.

MediaOne believes that implementation of ELCAs is within the State’s jurisdiction, pursuant to Mass. Gen. L. ch. 159, § 12(d), which grants the MDTE with general supervision,

⁶ North American Numbering Council Working Group Modified Report to the North American Numbering Council on Number Optimization Methods, (October 20, 1998), at 25, § 3.1.

jurisdiction and control over the “transmission of intelligence within the Commonwealth by electricity, by means of telephone lines . . . , or any other method of communication,” when rendered for public use in the Commonwealth. Mass. Gen. L. ch. 159, § 12(d). MediaOne also believes that while all carriers should have the option to enter into ELCAs if they so choose, ELCAs should not be mandated as a number conservation tool. Therefore, MediaOne would support the MDTE’s authority to implement ELCAs, but would oppose mandatory implementation for purposes of number conservation.

5. Inconsistent Rate Centers

Inconsistent Rate Centers (“IRCs”) would permit a CLEC to design rate center boundaries that are different from that of the incumbent. The MDTE requests authority to implement IRCs as a possible number conservation measure. *MDTE Petition, p. 11*. As with ELCAs, MediaOne contends that the MDTE, pursuant to its general jurisdictional powers under Mass. Gen. L. ch. 159, § 12(d), has the authority necessary to consider IRCs as a conservation tool and is not in need of additional Commission authority.

In Massachusetts, Bell Atlantic currently operates with 203 rate centers, an extraordinarily high number. For this reason, MediaOne views IRCs as a valuable opportunity to conserve numbers because it would allow a CLEC to serve multiple ILEC rate centers with a single NXX code, instead of one NXX code per incumbent rate center. However, IRCs also present complex call routing, call rating, billing, local number portability and E911 problems, which would need to be addressed by the DTE prior to implementation. MediaOne would therefore support MDTE authority to permit IRCs, but would oppose mandatory implementation of IRCs as a conservation measure.

6. Rationing Measures

Both Massachusetts and New York Commissions request authority to modify the code rationing measures currently in effect in each state. *MDTE Petition*, pp. 8-9; *NYDPS Petition*, p. 14. Pursuant to the Pennsylvania Order, once jeopardy has been declared, the Commission has imparted the authority to decide the jeopardy procedures to the industry, as administered by NANPA, and not to the states. A state commission may architect code rationing plans *only if* it has determined an implementation date for a specific area code relief plan, *and* industry consensus has not been reached for rationing procedures. *Pennsylvania Order*, ¶ 25; 47 C.F.R. 52.19(a). The purpose of this rule, no doubt, is to compel state commissions to confront area code relief, despite its lack of appeal and the political difficulties associated therewith, and not falsely extend the life of the existing area code through code rationing.⁷ State decisions on area code relief must be made swiftly upon the declaration of jeopardy. In extreme cases, where a carrier is unable to serve customers because it lacks numbers, a limited intervention from a state commission may be appropriate, as discussed in more detail below.

The MDTE seeks authority in two areas. First, to revise the existing rationing procedures which were agreed to by the industry pursuant to NANPA jeopardy protocol, and provide for more “flexibility” in extending the lives of the area codes while long-term numbering solutions are being investigated. *MDTE Petition*, p. 8. Second, the MDTE also requests that it be given the ability to extend current code rationing measures through the first six months of area code relief in all existing area codes, as well as plenary authority to administer and allocate NXX codes during this period. MediaOne opposes both of these requests from the MDTE.

⁷ As noted in the Pennsylvania Order, state administrators may participate in industry rationing discussions, “but a state commission may not impose a rationing plan on its own to avoid

The rationing plan currently in effect was determined by industry consensus pursuant to NANPA jeopardy procedures. Rationing itself is not a long term code conservation panacea, but an interim measure established once an area code is put into jeopardy, which, in turn, triggers the state's obligation to plan for area code relief. Rationing, like other conservation measures, cannot be used to forestall area code relief. Moreover, it would hinder competition if the "flexibility" the MDTE is seeking reduces the number of codes available to carriers per month. Once jeopardy has been declared the handwriting is on the wall that relief must be implemented. Particularly where competitors are concerned, the availability of fewer and fewer codes per month is not the answer to a dwindling NXX code supply. Any changes to the current rationing scheme to reduce the number of codes allocated per month would hinder the ability of facilities based CLECs to expand their service territory, and unnecessarily stifle competition.

Similarly, it would not be appropriate to continue code rationing procedures once a new area code has been implemented. Rationing under *any* circumstances impedes competition. While MediaOne supports rationing as an equitable interim measure during jeopardy, it should not be in place for a moment longer than is necessary to implement area code relief. Rationing is not a long-term code conservation measure, and should not be relied upon as such. Alternative number conservation tools that do not present the devastating competitive impact of code rationing; such as rate center consolidation and thousands-block pooling, should be instituted concurrently with relief. Although the MDTE's intent to avoid another declaration of jeopardy following relief is admirable, other conservation methods which do not have such a destructive impact on competition can and should be used towards this end. It would be unacceptable to

making a decision on area code relief." *Pennsylvania Order*, ¶ 25.

subject CLECs and new market entrants to such a restrictive environment for any amount of time longer than necessary.

The NYDPS also requests additional authority to adopt rationing prior to a decision on NPA relief, even if the industry has reached consensus. As in Massachusetts, the industry members in New York have reached a consensus on rationing procedures, thus preventing the need for interference from the NYDPS. As stated above, interference with industry approved code rationing procedures that would reduce the number of codes available to carriers under the monthly lottery system would unnecessarily hinder competition.

7. Authority to Address Carriers Seeking Additional Codes

The MDTE also appeals to the Commission for authority to hear and address claims of carriers seeking additional exchange codes outside of the rationing procedures. *MDTE Petition*, p. 8. The MDTE states that it would work with the code administrator to ensure those carriers who are unable to serve their customers due to the unavailability of numbers could acquire additional exchange codes until area code relief is implemented.

MediaOne supports the granting of such authority, but only if used sparingly, in limited situations, and upon a showing of true need. As the Commission authorized in Pennsylvania, it is prudent that the MDTE have this discreet authority to “hear and address carriers claims that they do not, or [in] the near future will not, have any line numbers remaining in their NXX codes and will be unable to serve customers . . . or that they are using or will have to use extraordinary and unreasonably costly measures to provide service.”⁸

⁸ FCC Response to Pennsylvania Public Utility Commission, December 2, 1998, DA 98-2465, CC Docket No. 96-98.

Should the MDTE address a particular carrier's need through this type of relief, it is imperative that any order issued should not "disfavor particular carriers, should not impede carrier's ability to enter the market, and should not put carriers in the position of violating the FCC rules."⁹

8. Number Assignment Standards and Enforcement

Both MDTE and NYDPS have requested additional authority related to NXX code assignment in general, regardless of whether the NPA is in jeopardy. Specifically, the NYDPS suggests implementation of a needs-based NXX code allocation plan¹⁰ requiring consideration of the following items prior to the assignment of a new code: number utilization thresholds or "fill-rates," number utilization surveys, auditing and enforcement authority. *NYDPS Petition*, pp. 11-16. Likewise, MDTE also seeks general code allocation authority during non-jeopardy situations, including the ability to address fill-rate and inventory requirements, in order to make code assignment based upon a carrier's actual need. *MDTE Petition*, p. 9.

MediaOne opposes granting individual states plenary authority over code assignment and allocation in non-jeopardy situations. Industry assignment guidelines have been developed and implemented on a national basis, and are set forth in Section 4.0 of the COC Guidelines. As noted by the Commission, while efficient allocation of finite numbering resources is critical, the 1996 Telecommunications Act assigned to the Commission the responsibility for implementing a national number policy. *Pennsylvania Order*, ¶ 21. If the Commission determines that there is a need to revise the existing procedures, the Commission, the States and the industry should work together to develop a fair and equitable numbering allocation plan that can be implemented on a

⁹ *Id.*

¹⁰ Additional required components under the NYDPS code allocation plan include code rationing

nationwide basis. It would be imprudent to promote unique allocation procedures at the state level. In the interim, national numbering guidelines, by which the industry is bound, are in effect. Issues regarding enforcement of the national COC Guidelines should be raised with the entity responsible for their administration.

While state by state numbering allocation plans are not recommended, MediaOne would not be opposed to the Commission granting the States limited authority to conduct utilization surveys and audits of carriers' numbering needs during a jeopardy situation.¹¹ Such information would clearly be helpful to the state commissions in implementing number conservation, and during consideration of area code relief plans. Finally, if the States are granted this authority, because information relating to specific numbering needs is proprietary, carriers must be assured that information disclosed to state commissions remains confidential, and is not subject to disclosure to other carriers.

CONCLUSION

MediaOne shares the States' concern that numbering resources in this country are not being used efficiently. As a result, state commissions, the industry and the Commission should work together to alleviate the numbering crisis, but in a manner that does not hinder competition in the telecommunications marketplace. For the foregoing reasons, MediaOne supports the States' requests that increase the efficient allocation of limited numbering resources such as code reclamation and thousands-block pooling. Other conservation methods are certainly worthy of further study on the national level, such as individual telephone number pooling and unassigned number porting, but should not, at this time, be mandated by the States as number conservation


and reclamation procedures, which are addressed above.

¹¹ Industry Agreement currently in place in Massachusetts, as a part of its jeopardy procedures,

solutions. Finally, MediaOne does not believe that drastic conservation measures such as code rationing, number assignment and allocation should be made on the state level, as they pose a potential threat to true competition. MediaOne therefore opposes any request by the States seeking additional authority to implement code rationing, to revise existing jeopardy rationing procedures, or NXX code assignment during non-jeopardy situations. These procedures are best left to be resolved by the Commission and NANPA on a national basis.

Respectfully submitted,

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requires carriers to provide number utilization reports to the MDTE on a regular basis.

CERTIFICATE OF SERVICE

I, LeShawn M. Riley, hereby certify that on this 5th day of April, 1999, I caused copies of the foregoing "Comments of MediaOne Group on the Petitions of the Massachusetts Department of Telecommunications and Energy and the New York Department of Public Service for Additional Authority to Implement Area Code Conservation Measures" to be delivered by hand (*) or first-class, postage prepaid, mail to the following:

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